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Report of the Special Rapporteur on the situation of human rights in Belarus

Note by the Secretariat

In the present report, the Special Rapporteur on the situation of human rights in Belarus describes the developments in the situation of human rights in Belarus since his previous report (A/HRC/29/43), and assesses the State's overall compliance with recommendations made by the United Nations human rights mechanisms since 2010. The findings show that, except for the recent release of political prisoners on the eve of the 2015 presidential election, no improvements have been introduced in the systemic, entrenched curtailment of basic human rights that triggered the establishment of the mandate of the Special Rapporteur in 2012. The current level of scrutiny by the United Nations of compliance by Belarus with its human rights obligations must therefore continue, especially in view of the forthcoming parliamentary elections. The Special Rapporteur concludes the report with recommendations, with the forthcoming parliamentary elections of September 2016 in mind.

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I. Introduction

A. Background

1. The present report is submitted to the Human Rights Council pursuant to its resolution 29/17. Although the report is based on information received until 31 March 2016, it covers a period that goes beyond the previous report of the Special Rapporteur (A/HRC/29/43), given that it takes stock of the level of compliance by the Government of Belarus with the recommendations addressed to it in the past five years by United Nations human rights mechanisms. By doing so, the Special Rapporteur has endeavoured to assess overall changes, or absence of change, in the legal framework and in the practices of the State authorities with regard to human rights and fundamental freedoms.

2. The present review of the results of United Nations human rights advocacy in Belarus is offered by the Special Rapporteur between two crucial events: the presidential election of 2015, and the parliamentary elections scheduled for September 2016. In the wake of the presidential election held in December 2010, the Government of Belarus used massive violence against opposition leaders and their supporters. The incarceration of seven presidential candidates was followed by the systematic and deliberate curtailment of an extensive list of basic human rights.

3. In 2012, the Human Rights Council, on the basis of a report of the United Nations High Commissioner for Human Rights (A/HRC/20/8), established by its resolution 20/13 the mandate of Special Rapporteur on the situation of human rights in Belarus, and requested the mandate holder to report annually to the Council and the General Assembly. The Council has since renewed the mandate three times, for one year, in its resolutions 23/15, 26/25 and 29/17. Other United Nations human rights bodies and mechanisms, including the Working Group on the Universal Periodic Review, have also made numerous recommendations aimed at improving the situation of human rights and the Government's compliance with the State's international obligations.

4. The Special Rapporteur welcomed the release of six political prisoners (Mikalai Statkevich, Mikalai Dziadok, Ihar Alinevich, Yauhen Vaskovich, Artsiom Prakapenka and Yury Rubtsou) before the presidential election of 11 October 2015. The Special Rapporteur notes that the release was welcomed by intergovernmental organizations and by human rights organizations.

5. The Special Rapporteur also notes that the presidential election of 2015 was held without police violence and without the arrest of political opponents, unlike the previous presidential election of 2010.

6. While expressing relief at these concessions, the Special Rapporteur is concerned that release of the above-mentioned political prisoners was conducted in the same arbitrary manner as their incarceration. Furthermore, the release in no way supported the freedom of election, given that those released have not had their civil or political rights restored. As a result, the seven presidential candidates detained after the 2010 election, like other long-term political prisoners pardoned in 2014 (see A/HRC/29/43, para. 63), for example Ales Bialatski, were unable to stand for election in 2015.

7. Notwithstanding the absence of violence by law enforcement bodies, the conduct and results of the 2015 presidential election were assessed by the Organization for Security and Cooperation in Europe (OSCE) as in no way less restrictive or more reliable than the

election held in 2010.[1] Therefore, the release of the prisoners on the eve of the election without restoring their right to stand for election may have only deepened the climate of fear that has characterized governance for decades. As reported by the Special Rapporteur in several previous reports, the repressive legal framework has only tightened since 2010, as has the systematic use of criminal and administrative sanctions against opponents and critics, or any expression of dissent, even when peaceful.

8. Both the conduct and the results of the September 2016 parliamentary elections will constitute a test of the resolve of the President to reform the governance of human rights in Belarus. The Parliament of Belarus is the only one in the European continent that does not muster any modicum of opposition, merely rubber-stamping the President's decisions. This has been the case of every Parliament in the past 20 years, regardless of whether the opposition attempted to participate in or decided on a boycott in protest against the restrictions.

9. The Special Rapporteur hopes that the next parliamentary elections will be not only free of violence and repression but will also allow for political opinions other than those of the President to be aired, and as a result political forces will be able to win seats in a number proportionate to their independently verified votes.

10. The persistent presence in the criminal code of the death penalty and its repeated application remain another pattern of non-compliance with human rights standards that sets the State apart on the European continent. The Special Rapporteur deplores the use of the capital punishment by tribunals. The most recent sentence thereof was handed down on 16 February 2016, one day after the Council of the European Union lifted most of its sanctions against individuals and companies from Belarus.

11. During the period under review, the Special Rapporteur noted no change in the "permission-based" regime governing freedoms of assembly, expression and association, and other human rights. This entrenched system is, in the Special Rapporteur's view, the basis of the prevailing climate of fear that deters any attempt to express views or to organize assemblies or associations that the Government deems undesirable. It consists in the de jure criminalization of any public activity that has not gained previous authorization from the administration. The authorities themselves decide in every case whether de jure criminalization should be made a de facto one, and in what form, on a wide scale of punishment ranging from administrative to penal, from fines to incarceration, and to loss of unrelated civil rights. All changes in the past two decades, including the most recent instructions given to law enforcement bodies, have remained within the scope of this system, moving forwards and backwards alternatively while the Government has retained full control over public life.

12. On 4 May 2015, Belarus underwent its second universal periodic review. While the Special Rapporteur was encouraged by the level of engagement of the authorities with the process, he noted that the recommendations made by Member States were similar or even identical to those made during the previous review, reflecting the absence of change in the overall situation of human rights in the country. In particular, no progress was made on any of the recommendations accepted by the State involving civil society organizations other than those established by the Government.

13. A national human rights institution has yet to be created, as recommended by the Working Group on the Universal Periodic Review in 2010 and again in 2015 (see A/HRC/15/16 and A/HRC/30/3). A national institution in accordance with the Paris Principles would assist the Government in addressing shortcomings and pave the way for

[1] OSCE, "Belarus, Presidential Elections, 11 October 2015: Final Report", 28 January 2016.

gradual compliance with international standards. The Special Rapporteur deplores the fact that no substantive progress has been made towards the creation of such an institution.

14. The recent release of political prisoners and the orders given to law enforcement bodies to refrain from use of violence against peaceful demonstrators should not blur the reality of the overall situation of human rights. In the assessment of the Special Rapporteur, the authorities, since the presidential election, have not shown any resolve to substantially ease the systemic restrictions on human rights, nor have they initiated the recommended cooperation with the international human rights mechanisms.[2] The Special Rapporteur makes his recommendations with these considerations in mind.

B. Methodology

15. The Special Rapporteur has not enjoyed any cooperation with the authorities of Belarus, despite repeated requests made by the mandate holder over the years. The most recent request, dated 17 February 2016, addressed to the Permanent Representative of Belarus to the United Nations Office at Geneva, to conduct a visit to Belarus remained unanswered as at 31 March 2016. The Special Rapporteur deplores this situation, given that engagement, even incremental, with the mandate holder would allow him to obtain first-hand information, and would demonstrate goodwill in addressing the systemic human rights issues of Belarus.

16. Given that in situ visits were not possible, the work of the Special Rapporteur continues to be based on information received from various partners: rights-holders, victims of violations and their relatives, civil society actors, representatives of international and regional organizations, and diplomats. While seeking this information, the Special Rapporteur has continued to be guided by the principles of independence, impartiality and objectivity. The sources of information necessary to conduct the analysis contained in the present report are indispensable. The Special Rapporteur attaches particular importance to the safety and security of sources of information.

17. As in previous reports, the Special Rapporteur describes the main human rights concerns in Belarus since the previous report submitted to the Human Rights Council. In addition, as mentioned above, his analysis focuses on the degree of compliance of Belarus with the numerous recommendations made by the human rights mechanisms of the United Nations. The clustering of recommendations follows the human rights mechanisms of the United Nations since 2010, year of the first review of Belarus by the Working Group on the Universal Periodic Review.

II. Rule of law and legal framework

18. After the presidential election of October 2015, no legislative action has been initiated to improve the situation of human rights; the oppressive laws and practices remain in force.

19. Presidential decrees continue to be used as the main legislative mechanism in Belarus (see A/HRC/26/44, para. 21 and A/HRC/29/43, para. 21). The Parliament, where any form of opposition is still precluded, merely approves the legislation presented to it.

[2] See Office of the United Nations High Commissioner for Human Rights "Statement by the Special Rapporteur on the situation of human rights in Belarus, Miklós Haraszti", 9 February 2016.

Presidential decrees may overrule existing legislation on any issue, including constitutional law.

20. The presidential administration also overrides the principle of the separation of powers by determining the policies of the executive, preparing draft legislation adopted by Parliament and influencing the courts by providing conceptual instructions concerning State policy ("directives"). The legal framework in place does not allow for change unless it is based on the political will of the President. As a result, basic civil and political rights, like economic, cultural and social rights, whether or not included in the Constitution or in international treaties, are not enforceable by the citizens, even though the Government may refer to them rights when executing the State's policies.

21. The Special Rapporteur remains concerned by the system of appointment of judges and prosecutors, as described in his previous report to the Human Rights Council (A/HRC/29/43, paras. 34-40). The President may single-handedly promote or demote any judge or prosecutor. The absence of any separation between the judiciary and the executive power was already underlined in the report of the Working Group on the Universal Periodic Review in 2010 (A/HRC/15/16 98.25), and again in 2015 (A/HRC/30/3, para. 127.74-75). In 2012, the Committee on Economic, Social and Cultural Rights urged Belarus to guarantee the full independence and impartiality of the judiciary in line with the Basic Principles on the Independence of the Judiciary, including by establishing an independent body responsible for the appointment, promotion, suspension and removal of judges (E/C.12/BLR/CO/4-6, para. 6). To the knowledge of the Special Rapporteur, such a body had not yet been established (as at 31 March 2016).

22. Defence lawyers, despite numerous recommendations by United Nations mechanisms, continue to be fully dependent on the Ministry of Justice, which controls entry to the legal profession. Arbitrary, politicized claims of violations of rules, such as cooperation with United Nations human rights mechanisms, can lead to disciplinary removal from the bar association at any time and without recourse to appeal.

23. The Special Rapporteur reiterates his calls for the engagement of the Government of Belarus in a broad reform to bring legislation into compliance with its international human rights obligations. He recommends that the Government, inter alia, repeal article No. 193.1 of the Criminal Code, which criminalizes membership in unauthorized associations and public events, reform its oppressive media governance, in consultation with all media and civil society actors, and establish a legal moratorium on capital punishment with a view to its abolishment.

III. Engagement with the international human rights system

24. The Working Group on the Universal Periodic Review examined Belarus on 4 May 2015, for the second time. The compilation prepared by the Office of the United Nations High Commissioner for Human Rights (A/HRC/WG.6/22/BLR/2) contained information on the level of engagement of the authorities with the United Nations human rights system as at 4 March 2015. Since that date, the Special Rapporteur has noted no further engagement. The authorities refused to support recommendations to extend a standing invitation to special procedure mandate holders (A/HRC/30/3, paras. 130.25 – 130.38).

25. The Special Rapporteur notes that the Government of Belarus examined and supported recommendations made by the Working Group on the Universal Periodic Review on considering or facilitating ratification of or accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (A/HRC/30/3, paras. 127.2 – 127.5) and the Convention on the Rights of Persons with Disabilities (A/HRC/30/3, paras. 127.7 – 127.11). The Special Rapporteur points out,

however, that the Government of Belarus supported similar recommendations made during the first cycle of the universal periodic review (see A/HRC/15/16, paras 97.1 and 97.2), and that no tangible progress has been made since, besides the signing of the Convention on the Rights of Persons with Disabilities by Belarus in September 2015.

26. In 2016, Belarus is scheduled to be reviewed by the Committee on the Elimination of Racial Discrimination and by the Committee on the Rights of Persons with Disabilities. Belarus has submitted its combined report to the Committee on the Rights of Persons with Disabilities; the review by the Committee will be based on the replies of the State, to be submitted by 24 May 2016, to the preliminary list of issues.

27. Since the previous report of the Special Rapporteur, a number of cases have been filed under the Optional Protocol to the International Covenant on Civil and Political Rights. At its 115th session, in October 2015, the Human Rights Committee adopted views on six communications with regard to Belarus, most of which concerned violations of the freedoms of expression, assembly and association.[1]

28. The Special Rapporteur is aware that a number of workshops and seminars organized by the Government of Belarus have been held with the support of international partners. The practice of holding short events on human rights issues raised by mechanisms (see notably A/HRC/30/3, para. 14) has been in place in Belarus for many years; nonetheless, the Special Rapporteur does not have any information suggesting that tangible changes have ever been made to the legal framework or the practices of State officials following such gatherings. For example, a conference on the death penalty was held in Minsk on 10 March 2016. The 1-day event, co-organized with the country office of the United Nations Development Programme and the Embassy of the United Kingdom of Great Britain and Northern Ireland in Belarus, featured a number of high-level speakers. The Special Rapporteur was not invited.

IV. Human rights concerns expressed by United Nations human rights mechanisms, and degree of compliance

A. Freedom of opinion and expression, and freedom of the media

29. During the period under review, despite consistent recommendations made by the Special Rapporteur and several United Nations human rights mechanisms over the years, freedom of expression in Belarus remained severely curtailed by the only national media in Europe to be controlled exclusively by the Government, control which extends to radio, television, the press and Internet-hosted media. No legal changes have been brought or prepared to alter the oppressive governance of the media. The system of registration of media outlets remains permission-based, rather than notification-based, as recommended, making it effectively impossible for start-ups to operate without consent from the authorities. The authorities have the power to warn and suspend any type of media entity, including Internet-hosted ones, by merely referring to content as "harmful to the State". The media entity concerned may appeal such decisions only before administrative courts, which consider only whether the authorities had the power to issue such injunctions. As a

[1] See CCPR/C/115/D/2019/2010 (Anatoly Poplavny v. Belarus); CCPR/C/115/D/2016/2010, (Leonid Sudalenko); CCPR/C/115/D/2133/2012, (Marina Statkevich and Oleg Matskevich v. Belarus); CCPR/C/115/D/1996/2010 (Ivan Kruk v. Belarus); CCPR/C/115/D/2289/2013 (Pavel Selyun v. Belarus); CCPR/C/115/D/2011/2010 (Vladimir Romanovsky v. Belarus).

consequence, the courts regularly approve the injunctions without even taking actual media content into consideration.

30. Pluralism of the media and freedom of expression will play a crucially important role in the parliamentary elections to be held in September 2016. The recommendations made by the Office for Democratic Institutions and Human Rights of OSCE about media governance in its reports on the previous parliamentary elections, in 2012 and the presidential election in 2015[4] remain to be implemented.

31. In July and August 2015, seven journalists were fined for having cooperated with foreign mass media without accreditation. On 12 January 2016, journalist Larysa Shchyrakova was punished by a fine under article No. 22.9 of the Administrative Code. Kanstantsin Zhukouski, a freelance journalist, was tried in absentia and ordered to pay a large fine by the Kalinkavichy District Court.[5]

32. A worrying development was reflected in a recent statement by the Minister for the Interior, who claimed on 1 March 2016 that some media could be characterized as having launched an "information war" against the police, which, would therefore respond by all legal means, including legal actions.

33. Similarly, when on 2 March 2016 the Minister for Information received two journalists who presented him with an appeal signed by 156 people to protest against police violence towards journalists, he referred to the case of Pavel Dobrovolskiy, and justified the police actions against him.

34. The Special Rapporteur recalls that the harassment of journalists has been a constant practice by the regime, and recommended that judicial authorities cease these practices (see A/70/313). The statements made by the Ministers do not reflect any change in approach. As shown in the above cases, harassment can come in the form of arbitrary arrests, administrative searches, the confiscation of working tools and materials, fines, tax inspections or a summons for questioning.

35. The above-mentioned practices of intimidation by legal action against journalists had already been noted in 2010, when at its first universal periodic review, it was recommended that Belarus review its national legislation to ensure compliance with the freedom of expression, and ensure that the freedom and independence of the press were in line with European and international standards (A/HRC/15/16, paras. 98.27 – 98.32).

36. Five years later, during the second cycle of the universal periodic review, recommendations were again made that the State review its legislation to guarantee greater respect for the freedom of expression (A/HRC/ 30/3, paras. 129.57 – 129.65). Belarus was called upon to improve the overall situation of media freedom, and to amend the law on mass media to bring it into line with international standards and with the recommendations made by the OSCE Representative on Freedom of the Media.

37. The Special Rapporteur has made numerous recommendations regarding freedom of opinion and expression, especially on the freedom of the media, in his most recent report to the General Assembly (A/70/313), which focused on the issue.

38. It is significant that, in its report on the presidential election in 2015, the election observation mission of the OSCE Office for Democratic Institutions and Human Rights recommended that the authorities reconsider the requirement for accreditation and allow

[4] See OSCE, "Belarus, Parliamentary Elections, 23 September 2012: Final Report", 14 December 2012, and "Belarus, Presidential Elections, 11 October 2015: Final Report", 28 January 2016.

[5] See Viasna Human Rights Center, "Human Rights Situation in Belarus in 2015: Analytical review".

journalists working for domestic media to also work for foreign media or Belarusian media based abroad.

39. The television channel Belsat, which broadcasts in Belarusian language from Poland, submitted a number of documents to the Ministry for Foreign Affairs on 21 March 2016, seeking accreditation for their journalists and cameramen to work from Belarus. At the time of finalization of the present report, no answer had been received from the Ministry. Belsat has been seeking accreditation for several years (see A/HRC/29/43, para. 84).

40. The Special Rapporteur underlines the fact that, while it harasses independent media, the Government takes measures to promote newspapers owned by the State. For example, the management of one company and employees of Salihorsk enterprises were ordered to subscribe to a number of "State-controlled publications".[6]

41. The Special Rapporteur highlights the situation of freedom of expression of artists in Belarus. He notes that the Belarus Free Theatre is still outlawed. The company, whose plays address contemporary social issues in Belarus, continues to stage performances, but in secrecy, announcing where they will be held(generally private apartments) only on the same day. The members of the company and their supporters have been allegedly harassed by the authorities.

42. The fact that the winner of the 2015 Nobel prize for literature, Svetlana Alexievich, was unable to publish all of her work in Belarus illustrates how thoroughly freedom of opinion, information and art is curtailed, by a barrage of punitive laws, administrative regulations and governmental control.

43. On 29 January 2016, youth activists Viachaslau Kasinerau, Maksim Piakarski and Vadzim Zharomski, who in August 2015 had drawn creative graffiti on buildings, were sentenced to large fines by the Frunzienski District Court. Once the individuals whose property had been defaced by the graffiti had received full compensation, they filed a request to have the case dismissed. The case could have been dropped, but prosecution rather continued, on the charge of "hooliganism" (Criminal Code, art. 339). During the hearings, the prosecutor allegedly referred to materials, some of which suggest that the investigators had tapped the defendants' mobile telephones in May 2015, even before the graffiti were drawn.

B. Freedom of association

44. Since the establishment of the mandate, the Special Rapporteur has recommended several ways to ease the systematic restrictions of the right to freedom of association, consisting of laws, institutional practice and recurring arbitrary violations.

45. At its universal periodic review in 2010, Belarus accepted various recommendations relating to improving respect for freedom of association and legal conditions for the activities of civil society. Nonetheless, since 2010, new legal acts and laws have been adopted that restrict freedom of association and virtually disable civil activism.

46. The Special Rapporteur regrets the fact that no new registrations have been accepted since the amendments to the law on public associations and on political parties were adopted on 20 February 2014, owing mainly to the numerous remaining administrative hurdles and a lack of political will.

[6] Viasna Human Rights Center, Human Rights Situation in Belarus: December 2015, 4 January 2016.

47. Three main restrictions undermine the right to freedom of association: the rules on registration; the widespread refusal of registration; and the criminalization of unregistered civil activities and funding. Most notably, article No. 93.1 of the Criminal Code criminalizes any activity undertaken by a non-registered non-governmental organization and its "members". All public activities and events require prior authorization from bodies at different government levels, which exercise their power in full discretion. The process of applying for registration is highly obstructive. Civil society groups are repeatedly and arbitrarily denied registration on various grounds, many of which are not even mentioned in the relevant law or regulations.

48. The Special Rapporteur continued to receive information on the difficulties encountered by many who wished to create groups freely. For instance, on 1 December 2015, the Minsk City Executive Committee denied State registration to the cultural and educational public association New Alternative. The reason given for the decision was that the organization's name did not correspond to the objectives specified in its charter.

49. Also in December 2015, the civil campaign "Tell the Truth" was, for the fourth time, denied State registration as a public association. The Ministry of Justice claimed that some of the annexes to the request were lacking signatures. When representatives of the movement asked for information on what exactly had been omitted, the registration authority refused to reply.

50. On 17 February 2016, a representative of the Belarusian State Medical University allegedly declared that three non-governmental organizations that addressed student matters were "unauthorized" and "illegal". Subsequently, instructions were given to hold "preventive conversations" with the students to warn them against participation in the activities of the organizations, described as hosting anti-government elements. The Special Rapporteur is appalled to see the administration of an education entity exercise pressure to limit the freedom of association, which is further proof of the systemic oppression in Belarus.

51. The above cases contradict the commitments made by Belarus during its review by the Working Group on the Universal Periodic Review to examine a number of recommendations on improving the exercise of and guaranteeing freedom of association (see A/HRC/30/3, paras. 129.61, 129.64 and 129.87, inter alia), in particular by the repeal of article No. 193.1 of the Criminal Code.

52. The Committee on the Elimination of Discrimination against Women had also recommended in 2011 that Belarus de-criminalize participation in the activities of unregistered public associations, including women's associations, and create an enabling environment and ensure funding opportunities for women's associations (CEDAW/C/BLR/CO/7, para. 28).

C. Freedom of peaceful assembly

53. The Special Rapporteur welcomes the fact that public gatherings have not triggered violence or immediate arrests by the police since October 2015. Disproportionate administrative fines seem to have been prioritized over immediate arrests by recent instructions, while both approaches remain legal. The Minister for the Interior, in a statement issued on 1 March 2016, explained that Ministry has "modified its approach to unauthorized demonstrations". The reason for the shift was "a different direction in foreign and interior policy"; the Minister stressed, however, that the law and its aim to discourage unwelcome public gatherings had not changed.

54. The number of individuals administratively prosecuted and fined for participating in unregistered events has not, however, declined since the presidential election in October. *De jure* criminal status, in accordance with article 193.1 of the Criminal Code, remains unchanged. The complicated authorization procedure for public gatherings and the broad scope available to authorities to determine whether a location is suitable for holding demonstrations still leads to the arbitrary denial of public events.[7] Local authorities consistently refuse permission for assemblies, even in places that they had previously allocated to this purpose in their own decisions. Such situations have been reported in Biaroza, Vitsebsk, Baranavichy and other cities.[8]

55. Counter to the expectations raised by the lack of immediate repression of rallies during the election period, administrative charges were brought retroactively after the election against the organizers of public rallies held in August, September, October and November, who were given substantial fines.[9] Viachaslau Siuchyk was sentenced in absentia to a large fine for having participated in the demonstrations held on 10 and 11 October, in Freedom Square and Kastrychnitskaya Square on the day of the presidential election). The co-chair of the Christian Democratic (BCD) party, Pavel Seviarynets, was sentenced in absentia to a fine for involvement in a procession on 24 November 2015.

56. Since January 2016, new administrative charges have been brought against opposition activists for their involvement in street protests and pickets.

57. On 5 January, Maksim Viniarski was given a large fine for taking part in a student march held on 2 December 2015. On the same day, Leanid Kulakou was fined for staging a picket on International Human Rights Day.

58. On 19 January, Aliaksandr Makayeu was fined under article 23.34 of the Administrative Code for participating in a march held on 24 November 2015 in Minsk to mark the anniversary of the referendum of 1996 and to honour the memory of the politicians who disappeared in 1999 and 2000. Maksim Viniarski was charged for the same activities and ordered to pay a large fine. One of the organizers of the student march, Hleb Vaikul, was expelled from the Belarusian State University. The activist stated that the harassment was linked to his civil activities.

59. The repeated protest rallies held by small entrepreneurs and supporters against the imposition of new trading restrictions have resulted in numerous new court cases and sentences, mostly fines. Such rallies were held in Minsk, Baranavichy, Viciebsk, Homiel and Polac in January and February 2016.

60. In March, the Minsk Central District Court handed down fines to Maksim Viniarskiy, Leonid Kulakov, Vyacheslav Sivchik, Pavel Severinets and Pavel Sergey. Representatives of the United Civil Party face further charges related to administrative offences for their participation in rallies of solidarity with the entrepreneurs.

61. The Special Rapporteur recalls that, prior to the presidential election in 2015, the authorities in Belarus had continued to restrict the legal definition of mass events, invoking the restrictions applicable to public gatherings already contained in the Law on Mass Gatherings (A/HRC/29/43, para. 87). New restrictions had been passed to broaden the definition of "mass events", and on where demonstrations may be held. The dissemination

[7] Civil Rights Defenders, "Human Rights in Belarus", 7 July 2015.

[8] Belarusian Helsinki Committee, Analytical report, July – September 2015 (available from http://belhelcom.org/en/node/19821).

[9] Ibid.

of information on public gatherings was banned until the authorities had approved them.[10] As a result, the scope of "unauthorized events" that trigger administrative liability had grown to include distributing printed materials or carrying out photographic shoots. There had also been reports of cases of detention and prosecution for participating in events that had already been authorized.[11]

62. In 2014, the Special Rapporteur called upon the authorities of Belarus to end the obstruction, punishment and harassment of non-governmental organizations making use of their right to peaceful assembly (A/69/307, para. 93 (k)). In 2015, the Special Rapporteur noted the adoption of further restrictions to the right to gather in public (A/HRC/29/43, para. 87). Regrettably, the limitations to the exercise of the freedom of peaceful assembly have not been lifted, as the above examples illustrate.

63. At the first universal periodic review of Belarus, in 2010, it had been recommended that the State amend its legislation on mass events to ensure compliance with the International Covenant on Civil and Political Rights and simplify issuance of permissions for holding assemblies (A/HRC/15/16, para. 98.34). The recommendation was reiterated in 2015, based on the lack of progress made in amending legislation on public association and mass gatherings for it to comply with international standards (see A/HRC/30/3, paras. 129.57, 129.61, 129.65, 129.71, 129.77, 129.90 and 129.92-94).

D. Situation of human rights defenders

64. The Special Rapporteur continued to receive alarming reports regarding the situation of human rights defenders during the period under review. The authorities have persisted in their denial of registration for renowned human rights organizations, such as Viasna.

65. The Special Rapporteur refers to his report submitted to the General Assembly in 2014 (A/69/307), in which he made an in-depth analysis of the situation of human rights defenders and made several recommendations on ensuring an enabling environment for activists to operate. He notes, however, that the restrictions have remained in place, as has the practice of constant harassment, making it virtually impossible for human rights defenders to work safely.

66. On 24 November 2015, during a peaceful protest in Minsk commemorating the referendum held in 1996 that increased the powers of the President and led to the introduction of the death penalty, two *Viasna* observers, Sergei Kaspiarovich and Natalia Satsunkevich, were charged with having organized the event, despite wearing observer badges with their own photos. They face a fine or detention.[12]

67. On 16 February 2016, the criminal case against former presidential candidate Ales Mikhalevich was extended again for another month. On 14 March, his case, originally opened after the events of 2010, was suspended, but may be re-opened at any time.

68. On 10 July 2015, human rights activist Mikhail Zhamchuzhny was sentenced to six years in a penal colony on the charges of intentional disclosure of information constituting an official secret, illegal acquisition (production) of means for secretly obtaining

[10] See Human Rights Watch, Human Rights Watch UPR Submission to UNHRC - Belarus, 17 September 2014.

[11] Viasna Human Rights Center, "Situation of Human Rights in Belarus in December 2014", 13 January 2015.

[12] Worldwide Movement for Human Rights, "Belarus, judicial harassment of Mr. Sergei Kaspiarovich and Ms. Natalia Satsunkevich", 3 December 2015.

information constituting an official secret, and bribery. Despite the fact that the trial was held behind closed doors, and therefore not transparent, the Special Rapporteur believes, on the basis of *bona fide* sources, that the case is political in nature.

69. The Special Rapporteur refers to the case of Leanid Sudalenka, a human rights activist whose regular harassment is emblematic of the handling of human rights defenders. In April, May and August 2015, police and border guards repeatedly subjected Mr. Sudalenka to searches in his apartment and at border crossings, seized his computer, and in at least one instance allegedly used violence against him. All allegations of dissemination of pornographic material, like all other charges against him, were eventually dropped. Mr. Sudalenka has also faced administrative charges laid by the tax authorities, although they were subsequently dismissed as immaterial.

70. The Special Rapporteur also refers to the situation of human rights activist Alena Tankachova, who was deported from Belarus in February 2015. Ms. Tankachova made a written request to the Department of the Interior of the city of Minsk that the period of the ban on her return to Belarus be reduced and that her name be removed from the list of persons banned from entering the country. The Department rejected her request.

71. Already in 2010, at its first universal periodic review, States had recommended that the authorities of Belarus guarantee that civic organizations, human rights defenders, political parties and unions were able to carry out their legitimate activities without fear of reprisal, restrictions, judicial harassment or intimidation, and ensure that violations against human rights defenders were effectively investigated in order to bring those liable to justice (A/HRC/15/16, paras. 98.30 – 98.35).

72. Five years later, the same recommendations were made again, namely, that the authorities ensure the safety of human rights defenders, and their human rights, particularly the freedom of expression, and conduct a prompt and transparent investigation in to reports of intimidation of and reprisals, threats and violence against human rights defenders (A/HRC/30/3, paras. 129.67 – 129.90).

73. The Committee against Torture had similarly concluded in 2012 that Belarus should take all steps necessary to ensure the protection of human rights defenders and journalists from intimidation or violence as a result of their activities and conduct a prompt, impartial and thorough investigation in to, and prosecution and punishment of such acts (see CAT/C/BLR/CO/4).

74. The Committee on the Elimination of Racial Discrimination had pointed out in 2013 that Belarus should ensure strict adherence to the principles and provisions of the International Convention on the Elimination of All Forms of Racial Discrimination in the interpretation and application of the Counteracting Extremism Act, and in its enforcement, so that it did not target or disadvantage human rights defenders promoting the elimination of racial discrimination (see CERD/C/BLR/CO/18-19, para. 10).

F. Civil society

75. The healthy development of civil society in Belarus has for decades been suppressed by restrictive regulations, which have hindered and even criminalized funding. Although the President signed, on 2 September 2015, a decree on foreign donations, which alleviated some procedures, all funding must still be registered with a department of the office of the President. Recourse to foreign funding without authorization still constitutes an administrative offence, and may become a criminal matter if repeated within the same year. Human rights activities are still excluded from the list of acceptable spending goals, making any such spending potentially criminal.

76. The presidential decree on funding thus maintains a situation already addressed during the first universal periodic review of Belarus, when States recommended that it strengthen cooperation between the Government and civil society organizations in promoting and protecting human rights (A/HRC/15/16, para. 97.40), and ensure that the authorities allow and facilitate the registration of non-governmental organizations and opposition parties (ibid., para. 98.30). In 2015, the Working Group on the Universal Periodic Review reported that no progress had been made with regard to those recommendations (A/HRC/30/3, para. 129.71 – 129.88).

77. The Committee on the Rights of the Child, in 2011, concluded that Belarus should review its laws, regulations and judicial and administrative practices to facilitate the registration and operation of non-governmental organizations and decriminalize membership in organizations that were unregistered (CRC/C/BLR/CO/3-4).

78. Similarly, the Committee on the Elimination of Racial Discrimination recommended in 2013 that the Government of Belarus should consult and expand its dialogue with civil society organizations working in the area of human rights protection, in particular in combating racial discrimination (CERD/C/BLR/CO/18-19, para. 21).

79. In 2014, the Special Rapporteur pointed out the need for the authorities of Belarus to remove all legal and practical obstacles to international cooperation of civil society striving to strengthen the enjoyment of the liberties provided for in international treaties and documents, including the obstacles that block, hinder, put conditions on and in particular that criminalize or financially penalize funding help from peer organizations abroad (A/HRC/26/44, para. 139 (o)), and cease the practice of giving preferential treatment to certain non-governmental organizations over others, and create a safe and enabling environment for civil society (A/69/307, para. 93 (l)).

F. Torture and other cruel, inhuman or degrading treatment or punishment

80. The Special Rapporteur notes that allegations of torture continued to be brought to his attention. As in past years, and despite the repeated recommendations by the United Nations human rights bodies, such allegations rarely lead to any criminal investigation against perpetrators. The authorities still do not allow access to the penitentiary system to independent investigators or monitors.

81. The Special Rapporteur was deeply disturbed by reports on 30 March 2016 on the death of Yahor Pratasenia, aged 20. In January 2016, Mr. Pratasenia had attempted to take his life in Zhodzina jail in protest against torture and abuse during interrogations and his detention. He had been arrested by the General Directorate for Drug Control and Human Trafficking in April 2015, and repeatedly subjected to physical abuse during his detention. On 28 December 2015, Mr. Pratasenia was sentenced to 14 years of imprisonment. The Special Rapporteur is concerned that no action was taken by the prison authorities to prevent the suicide attempts of the detainee.

82. The Special Rapporteur is concerned by reports about the regular use of violence by police officers against football fans. On 3 May 2015, police officers in Baranavichy allegedly severely beat football fans, 56 of whom were detained and taken to the police department. They were then forced to write statements that they had no claims against the police.

83. On 13 October 2015, blogger Viktar Nikitsenka was detained and severely beaten by security forces in Minsk for having taken a photograph with a homemade poster stating

"Lukashenka on trial". Despite the fact that medical experts found injuries on the victim's body, the authorities refuse to open a criminal case against the police officers.

84. Since their release, former political prisoners Yauhen Vaskovich, Ihar Alinevich, Yury Rubtsou and Mikalai Dziadok have spoken out about the conditions of detention and of the cruel and degrading treatment of prisoners.

85. In late December 2015, Pavel Rasliakou, a student, was beaten by investigators from the Department of the Interior of the Kastrychnitski district when questioned about a case of theft. The investigative committee refused to open a criminal case. The allegations of violence were corroborated by the conclusions reached in a medical examination.

86. On 25 January 2016, several activists disturbed a hearing of the "graffiti trial" (see para. 43 above). Pavel Siarhei and Maksim Shytsik were allegedly beaten by police officers. Pavel Dabravolski, a reporter, who was covering the trial for online media, was also detained and beaten. The court of the Frunzienski district sentenced the three men to fines on the basis of the testimony of the police officer, who, according to the persons convicted, had beaten them.

87. Already in 2010, at the first universal periodic review of Belarus, States had recommended that it introduce the definition of torture used in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment into national legislation, respect the provisions of the International Covenant on Civil and Political Rights by introducing an absolute prohibition on torture, suspend all officers implicated in cases of torture and ensure full and impartial investigation, and bring perpetrators to justice, as demanded by article 4 of the Convention (A/HRC/15/16, paras. 97.15, 97.28 and 98-1998.21).

88. In 2015, the same recommendations were made at the second universal periodic review of Belarus (see A/HRC/30/3, paras. 127.51-52).

89. In 2012, the Committee against Torture, in its concluding observations, recommended that Belarus adopt a comprehensive set of modifications in its legislation and practices (see CAT/C/BLR/CO/4).

90. The Special Rapporteur has also recommended that Belarus ensure the absolute prohibition of torture and other ill-treatment in law and in practice, and take measures to bring conditions of detention in places of deprivation of liberty into line with the Standard Minimum Rules for the Treatment of Prisoners and other relevant international and national law standards (A/HRC/26/44, para. 139 (j)). No reforms or preparations in this regard were discernible in the period under review.

G. Arbitrary arrest and detention, and enforced disappearances

91. The regular application on a massive scale of short-term arbitrary detention has long sustained the atmosphere of fear deterring use of the right to civil freedoms. The Special Rapporteur is concerned that the Government has not addressed any of the recommendations made by human rights mechanisms regarding arbitrary detention, especially of journalists and human rights defenders, and the practice of preventive detention. Despite apparent instructions to law enforcement to address public utterances with a summons to court rather than with violent means, the Special Rapporteur continued to receive serious allegations of arrests without warrant, and detention for several hours on disputable charges of individuals who participated in public demonstrations and rallies. The Special Rapporteur is concerned by the allegations of fabricated convictions and impunity of police officers who conduct arbitrary arrests and detention.

92. The Special Rapporteur draws attention to the fact that no progress has been made in solving outstanding cases of the enforced disappearance of political opponents of the President. These cases, which although dating back to 1999 and 2000 (see A/HRC/29/43, para. 66) are still unsolved, concern the testified abduction of prominent Belarusian opposition politician Viktar Hanchar and his business associate Anatol Krasouski, of Yury Zakharanka, the former Minister of the Interior, and Dmitri Zavadski, a cameraman. The issue was raised again during the second universal periodic review of Belarus (A/HRC/30/3, para. 129.5) amidst serious concerns with regard to the accountability of former or current law enforcement members and on impunity that the police authorities seem to enjoy.

93. On 12 August 2015, police in Mikashevichy detained Leanid Dubanosau, who was gathering signatures for presidential contender Tatsiana Karatkevich, on the grounds that he was intoxicated. The activist was forced to undergo a medical examination, which showed that he was sober at the time.[13]

94. On 9 September 2015, police officers in Jelsk, Homiel region, detained Aliaksandr Rybachenka, an activist for the European Belarus opposition movement, for trying to photograph flyers calling for a boycott of the elections. The activist was held in the police station for several hours, and eventually released without charge.[14]

95. On 1 August 2015, police officers prevented the holding of a rock concert near Minsk, and detained young people, including girls, using force and non-lethal weapons.

96. On 6 November 2015, Tamara Siarhei, leader of the civil initiative "Against lawlessness in the courts and Prosecutor's offices", who attempted to deliver a petition to President Lukashenka, was detained at the central railway station in Minsk.[15]

97. Arbitrary arrest and detention have been the subject of many recommendations of various United Nations human rights mechanisms, for at least the past six years. For example, the Committee on the Rights of the Child concluded that the authorities of Belarus should investigate the complaints about arbitrary detention of women in the context of the Presidential elections on 19 December 2010 (CRC/C/BLR/CO/3-4). Similarly, at the first universal periodic review of Belarus, States called upon the Government of Belarus to investigate, identify and punish perpetrators of harassment, arbitrary detention and torture of government opponents (A/HRC/15/16, para. 98.23). During the second universal periodic review of the State, the Working Group addressed the issue of the arbitrary detention of journalists, and called upon the Government to abandon that practice (see A/HRC/30/3, para. 129). In 2014, the Special Rapporteur recommended that all detainees be informed promptly of the reason for their detention and any charges against them, and that regular access to a lawyer of their choice and to their families be granted (A/HRC/26/44, para. 139 (i)).

H. Death penalty

98. Belarus remains the only State in Europe to enforce the death penalty. The authorities do not release information on the number of executions, which reportedly are carried out by shooting. Prisoners and relatives are not informed when the execution is due, and the relatives receive no prior notification. The bodies are not returned to relatives, but

[13] Viasna Human Rights Center, "Collector of signatures for Tatsiana Karatkevich detained in Mikaševičy", 13 August 2015.

[14] Viasna, "European Belarus activist detained in Jelsk", 21 September 2015.

[15] Viasna, "Human Rights Situation in Belarus: November 2015", 2 December 2015.

buried in unmarked graves.[16] This practice is maintained despite the numerous recommendations made by United Nations bodies and peer procedures over many years.

99. Since the previous report of the Special Rapporteur to the Human Rights Council, three sentences to death penalty have been announced. On 20 November 2015, Ivan Kulesh was sentenced by the Hrodna regional court. The sentence was confirmed by the Supreme Court on 29 March 2016. On 5 January 2016, Henadz Yakavistki was sentenced by the Minsk regional court. On 16 February, Sergei Khmelevsky was sentenced by the Minsk regional court.

100. The Government has continued its policy of disregarding deliberations pending before the Human Rights Committee and proceeding with executions. On 6 November 2015, the Human Rights Committee concluded that the execution of Pavel Selyun on 17 April 2014, despite a request for interim measures of protection, was a violation of article 14 of the International Covenant on Civil and Political Rights owing to the use of torture, and article 6 of the Covenant owing to the denial of the person's right to life (CCPR/C/115/D/2289/2013, communication No. 2289/2013).

101. The recommendations made at the second universal periodic review on the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (A/HRC/30/3, paras. 130.1 to 130.9) did not enjoy the support of the Government of Belarus; the Special Rapporteur maintains serious doubts on the professed goodwill of the authorities to put an end to the practice described above. Furthermore, the parliamentary working group on the death penalty, the establishment of which in 2012 had been viewed as a positive development by the Special Rapporteur, has yet to issue any constructive conclusions.

102. The State has made no progress on recommendations it supported, such as on conducting public campaigns to explain arguments in favour of the abolition of the death penalty, with the aim of ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights (A/HRC/30/3, para. 127.1), nor on examining recommendations with regard to the establishment of a moratorium on the death penalty (ibid., paras. 129.31 to 129.49).

103. In the highly centralized decision-making system of Belarus, the absence of any progress on the issue of death penalty, such as the commutation of the death sentence to a life sentence or the imposition of a practical moratorium on executions, can be explained as primarily a lack of political will of the authorities of Belarus.

I. Electoral system

104. The presidential election of 11 October 2015 was monitored by an election observation mission of the OCSE Office for Democratic Institutions and Human Rights, which issued its report on 28 January 2016.[17] In its report, the mission referred to a number of administrative improvements and certain goodwill gestures by the authorities to engage. It noted the absence of violence against opposition rallies that had marred the 2010 election, although it underlined the overall lack of progress, especially in the crucial domains of media rights, the verifiability of voter turnout, the transparency of vote counting and the inclusiveness of election committees.

[16] Civil Rights Defenders, "Human Rights in Belarus", 7 July 2015.

[17] OSCE, "Belarus, Presidential Elections", 28 January 2016 (see footnote 1).

105. The Parliament of Belarus has for two decades been the only legislative body in Europe without any members of an opposition, and has had no effective competence to actually legislate, given the power of the President to rule by decree.

106. In the light of the upcoming parliamentary elections in September 2016, the Special Rapporteur remains concerned about the Government's broad discretionary powers to deny registration of or to deregister political parties. The Belarusian authorities have not registered a single new political party since 2000, and political parties are repeatedly denied registration. For instance, on 14 August 2015, the Ministry of Justice refused to register the Belarusian Christian Democracy party for the fifth time. Consequently, on 14 September 2015, the leaders of the party filed a complaint with the Supreme Court against the refusal. In December, the party founders submitted an application for registration for the sixth time.

107. Registered oppositional political parties often face the rejection of their requests for public meetings. For instance, the Belarusian Party of the Left "Fair World" reported that that every one of its 65 applications for permission to hold meetings with voters had been rejected; the United Civil Party claimed that all eight of its requests had been rejected; and all 16 applications by members of the organizing committee of Belarusian Christian Democracy had been turned down. By contrast, parties and associations that support the incumbent parties were permitted to hold a large number of events.[18]

108. The Special Rapporteur notes the creation, on 12 February 2016, of an interdepartmental expert group on the recommendations made by the OCSE Office for Democratic Institutions and Human Rights on measures to improve the electoral process. He nonetheless regrets that the recommendations on amending the Electoral Code will be examined only after the parliamentary elections in September, and that civil society is not represented in the working group.

109. The Special Rapporteur points out that the six political prisoners (including some former presidential candidates) released (see para. 4 above) still have no civil rights, and therefore cannot stand for election.

110. In 2015, the Special Rapporteur presented his comprehensive assessment of the situation of elections-related human rights (see A/HRC/29/43). The recommendations were made in view of the presidential election of October 2015, and they remain valid for the parliamentary elections to be held in September 2016.

111. The most desirable reform steps would be to allow the free flow of political information and inclusive debates in the mass media; to repeal the law of 2013 criminalizing calls to boycott elections; to ensure the registration of parties and their participation in election committees; and to make turnout and vote results verifiable (see A/HRC/29/43 and A/70/313).

112. The Special Rapporteur stresses that lack of violence is only an initial precondition for the full respect of article 25 of the International Covenant on Civil and Political Rights. The forthcoming parliamentary elections in 2016 will be an opportunity for the authorities to show their commitment to reform by ensuring that free and fair parliamentary elections lead to the formation of a strong, pluralistic legislative body.

[18] Ibid.

J. Conditions of work

113. The Special Rapporteur, the International Labour Organization and several other bodies have criticized the fact that forced labour is still massively present in Belarus, the only country in Europe where State property accounts for between 70 and 80 per cent of the economy.

114. The Special Rapporteur deplores the approval, on 6 May 2015, of the presidential decree No. 3 on the prevention of social dependency, which creates the conditions for the expansion of the practice of forced labour in Belarus. It provides for the payment of fees by certain categories of unemployed citizens, including women raising children up to a certain age, persons with disabilities, senior citizens and students. It also grants the police the right to arrest persons "with obligations" (such as parents who have children under the custody of the Government) for even a single absence from work, and to send them to compulsory work.

115. The Special Rapporteur received reports of local authorities pressuring employees of local businesses and organizations to require participation in unpaid work, such as street cleaning. Some employees in the Kruhlaje district were allegedly required to donate their salaries earned on 27 October 2015 (on the "Day of Unpaid Labour in the Workplace") to a special account held by the local authorities.

116. The Special Rapporteur remains concerned about the discrimination in the workplace that members of unofficial trade unions and other activists face.

117. In September 2015, a union activist who went to work wearing a prisoner uniform in protest against labour conditions was fired.[19]

118. The management of a tractor factory in Babrujsk allegedly continue to dismiss activists of the Free Trade Union of Belarus. In August 2015, three members of the trade union were allegedly dismissed from the factory. They appealed to the chair of the regional executive committee, who did not take any action.[20]

119. At the second universal periodic review of Belarus, in 2015, the Working Group on the Universal Periodic Review raised the issues of working conditions and forced labour, and called upon Belarus to take measures to implement the recommendations made by the Committee on Economic, Social and Cultural Rights, including through the abolition of all types of forced labour, the elimination of fines for labour inactivity, and the abandonment of the widespread use of short-term working contracts as a means to deter workers from criticizing their conditions (A/HRC/30/3, paras. 127.86 and 129.96).

K. Discrimination

120. Although the Constitution of Belarus guarantees the general principles of equality and non-discrimination, no corresponding anti-discrimination legal framework is in place. Possible grounds for discrimination are listed only in the Labour Code, but the list is not exhaustive. Since there is no specific anti-discrimination law in Belarus, courts do not accept discrimination as a basis for lawsuits (A/HRC/29/43, para. 115). The general absence of freedom of association is also a cause of discrimination within society.

[19] Viasna, "Baranavičy: Opposition activist fired over wearing prison uniform at work", 27 September 2015.

[20] Viasna, "Another trade union activist loses job in Babrujsk", 16 September 2015.

121. The Special Rapporteur reiterates his recommendation, echoed in 2015 during the universal periodic review (A/HRC/30/3, paras. 129.24 – 129.28), that the authorities of Belarus enact, in order to address discrimination and the impunity thereof effectively, comprehensive anti-discrimination legislation prohibiting any kind of discrimination on the grounds of race, religion, sexual orientation and gender identity, language, political conviction or physical or mental disability, and at the same time establish mechanisms to ensure the constitutional principles of equality and non-discrimination and provide for remedies at law in cases of discrimination.

1. Gender

122. Although women are chosen to occupy various positions in the State apparatus, the Committee on the Elimination of Discrimination against Women, in 2011, in its concluding observations on Belarus, called upon the State to consider adopting a law on gender equality or comprehensive anti-discrimination legislation, including a clear definition of all forms of discrimination against women (CEDAW/C/BLR/CO/7, para. 12). Domestic violence, wage disparities and participation in political life and decision-making processes remain recurring challenges.

123. Belarus has not yet introduced legislation on domestic violence and marital rape.[21] The Government's efforts to combat gender-based violence have been mainly directed at preventing such crimes, not at protecting or assisting victims. Moreover, authorities have not tackled the root causes of violence, including alcoholism, social stigma and gender-based stereotypes.[22] The United Nations Population Fund has pledged to support the Government's efforts to develop and adopt a law on domestic violence.

124. Despite the provisions of article 14 of the Labour Code, which prohibits any discrimination in labour relations, gender inequality in the labour market is still an issue.[23] For instance, independent non-governmental women's organizations have reported that women are paid at least 25 per cent less than men.[24]

125. At its second universal periodic review, in 2015, States recommended that Belarus should continue implementation of its plan to combat discrimination against women and make further investment in the protection and promotion of women's rights to encourage their participation in decision-making processes (see A/HRC/30/3, para. 127).

2. Persons with disabilities

126. The Special Rapporteur commends the signing by Belarus of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto on 28 September 2015. Owing to the absence of a specific prohibition of discrimination against persons with physical, sensory, intellectual or mental disabilities, however, persons with disabilities continue to face physical and regulatory barriers, challenges to their access to work and education, and stereotyping (A/HRC/29/43, para. 120). The Special Rapporteur therefore recommends that the Government bring legislation and practice into conformity with the provisions of the Convention.

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[21] Civil Rights Defenders, "Human Rights in Belarus", 7 July 2015.

[22] United States Department of State, 2014 Country Reports on Human Rights Practices – Belarus, 25 June 2015 (available from www.refworld.org/docid/559bd58112.html).

[23] See ODB Brussels, "Global Call for Proposal 2015 under EIDHR Announced", 14 September 2015.

[24] United States Department of State, 2014 Country Reports – Belarus (see footnote 23 above).

3. LGBTI persons

127. Although same-sex relationships are no longer criminalized, current legislation does not offer protection to victims of discrimination on the grounds of sexual orientation, gender identity or gender expression.[25] Partly owing to the widespread homophobic rhetoric expressed even at the highest levels of the Government, discrimination against LGBTI persons, frequently manifested in the form of violence, remains a widespread phenomenon in Belarus. For example, on 25 May 2014, a young man, Mikhail Pishcheuski, was attacked while leaving a gay club in Minsk (A/HRC/29/43, para. 123). Mr. Pishcheuski died in hospital on 27 October 2015 from his injuries. Even though at his trial the murderer admitted that he had started harassing Mr. Pishcheuski because of his presumed homosexuality, the court decided that the crime had been motivated by "recklessness", showing that, in cases of crimes committed against homosexuals, hatred is not considered an aggravating factor. The perpetrator was sentenced to two years and eight months in prison, but was released only 11 months after sentencing.

128. In December 2014, the Government introduced a draft "anti-propaganda" law that would ban the dissemination of any information "discrediting the institution of the family" to children. The draft bill made no mention of any specific penal or criminal sanctions, but could be a further deterrent to open discussion of sexual orientation and gender identity.[26]

L. Cultural rights

129. The Special Rapporteur remains concerned about the limited use of the Belarusian language in education and cultural life (A/HRC/29/43, para. 126) and the systematic disregard of the principles of linguistic equality by the Government.

130. In August 2015, the Parliamentary Standing Committee on Education, Culture and Science considered the appeal made by the assembly of the Salihorsk branch of the Belarusian Language Society on the need to ensure equality of the Belarusian and the Russian languages in all spheres of life. The Committee denied that the current legislation limited the right of citizens to use either of the official languages.[27]

131. In 2013, the Committee on Economic, Social and Cultural Rights has already called upon the Government of Belarus to ensure that those wishing to study in Belarusian language classes, including at the level of higher education, are provided with such opportunities, and to promote the wider use of the Belarusian language in all areas of life, including cultural life (E/C.12/BLR/CO/4-6, para. 29).

V. Conclusions and recommendations

132. **In the light of the information made available relating tothe period under review, the Special Rapporteur finds that the systemic curtailment of human rights in Belarus has not changed.**

[25] Joint submission by GayBelarus and the Sexual Rights Initiative for the universal periodic review of Belarus, May 2015.

[26] See ILGA-Europe, Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe, 2015.

[27] Vtasna, "Parliament believes that language is settled perfectly by current legislation", 12 August 2015.

133. **No substantial changes in the repressive legal framework were discernible, despite repeated recommendations made by numerous United Nations human rights mechanisms on amending domestic laws to bring them into line with international human rights standards. The deeply entrenched limitations to the free enjoyment of all human rights continue to be inherent to the organization and functioning of the State.**

134. **Five years since its first review by the Working Group on the Universal Periodic Review, Belarus is still uncooperative with United Nations human rights mechanisms.**

135. **The Special Rapporteur is concerned that the perception that the situation of human rights in Belarus has improved, based on sporadic and marginal changes, conceals the lack of political will to engage in fundamental shifts, which are desperately needed. A few welcome concessions by the State, such as the release of political prisoners on the eve of the presidential election or the tendency to opt for fines rather than impose detention for people taking part in non-authorized rallies, allow nevertheless for the hope that the State will eventually commence to implement its long-pledged compliance with international human rights standards.**

136. **The Special Rapporteur encourages the authorities of Belarus to take advantage of the forthcoming parliamentary elections to strengthen, even if gradually, the national human rights protection system. The long list of recommendations made by international and regional human rights mechanisms offers a toolbox for the authorities.**

137. **The current level of scrutiny by the United Nations of compliance by Belarus with its human rights obligations must therefore be maintained, especially in view of the forthcoming parliamentary elections.**

138. **The Special Rapporteur reiterates his readiness to cooperate with the Government of Belarus. The recommendations that he made in his previous reports remain valid.**

139. **In addition, the Special Rapporteur recommends that the Government of Belarus:**

(a) **Reinstate the civil and political rights of all political prisoners that have been released;**

(b) **Repeal article 193-1 of the Criminal Code curtailing the freedoms of peaceful assembly and of association;**

(c) **Transform the permission-based registration system into a notification-based one so that the freedoms of assembly, association and expression, and many other human rights, cease to depend on politicized, selective and arbitrary government decisions;**

(d) **Register the civil society organizations and political parties that have been denied official recognition;**

(e) **Introduce a moratorium on executions leading to the total abolition of the death penalty;**

(f) **Implement all recommendations made by human rights mechanisms by means of a national human rights plan of action, designed in partnership with international, regional and domestic partners, including civil society;**

(g) **Establish an independent body responsible for the appointment, promotion, suspension and removal of judges and prosecutors, in accordance with the Basic Principles on the Independence of the Judiciary;**

(h) **Ensure the protection of all human rights defenders and activists from abuses by the State or law enforcement officials, and address impunity in cases of human rights violations by the latter;**

(i) **Implement the recommendations made by the OSCE election observation mission in its reports on the parliamentary elections of 2012 and the presidential election of 2015;**

(j) **Draft an anti-discrimination law encompassing all grounds of discrimination.**